

Docket No.: 5486-0169PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Jeffrey H. Alger et al.

Application No.: 09/892,228

Confirmation No.: 3296

Filed: June 25, 2001

Art Unit: 2453

For: CLIENT PORTAL

Examiner: Philip J. Chea

REQUEST FOR A PRE-APPEAL BRIEF CONFERENCE

MS AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

March 20, 2009

Sir:

INTRODUCTORY COMMENTS

Applicants respectfully request review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed concurrently with a Notice of Appeal.

The review is being requested for the reasons set forth on the attached five (5) Sheets.

ARGUMENTS

Summary

The subject application is finally rejected on October 21, 2008. Applicants have made numerous attempts to overcome the Examiner's basis for final rejection of the claims to include improper allegations of fact and law, and application of the rules of practice concerning well-settled case law, and accordingly, a reasonable basis to interpret a rejection in view of the supporting combination of references under U.S.C. § 103. That is to say that the Examiner has made an improper combination under § 103 with regards to the asserted combination of U.S. Patent No. 6,029,141 to Bezos et al. (hereinafter "Bezos") in view of U.S. Patent No. 6,324,552 to Chang et al. (hereinafter "Chang"), and further in view of U.S. Patent No. 5,761,071 to Bernstein et al. (hereinafter "Bernstein"). This asserted combination has been applied against claims 6-8, 10-14, 25-29 and 34-44.

Applicants have attempted to overcome the Examiner's reliance on several mistakes as to fact, law and construction under the practice rules, and as such, Applicants respectfully assert that the Examiner's numerous actions as set forth in summary herein and in more complete nature in the prior responses, have amounted to *numerous clear errors* in misconstruing the facts, the supporting law, and construction for the interpretation of the rejection under § 103.

Applicants respectfully assert that the Examiner has improperly rested upon these numerous errors and/or improperly inferentially read content from the subject application into the attendant prior art references, and has relied upon these improper bases to maintain the final rejection.

Applicants' Request

Applicants request that a Panel of Examiner's formally review the legal and factual bases of the rejection of the above-identified application prior to filing of an Appeal Brief. Applicants assert that the outstanding rejection is improper (now on Appeal by virtue of the concurrently filed Notice of Appeal) based upon errors of fact, errors of law, and errors for construction under the practice rules.

The October 21, 2008 Final Rejection

The October 21, 2008 final rejection improperly alleges that the subject claimed

invention is rendered obvious by the asserted combination of Bezos and Chang in view of Bernstein.

In reply to the final rejection, Applicants prepared and filed an Amendment on February 20, 2009 clearly asserting the improper combination of references, to include the clear misapplication of Chang, wherein the Examiner has apparently read content from the subject application into at least the Chang reference.

That is to say that one of ordinary skill in the various technologies when reviewing Chang would be hard pressed to glean from Chang any of the particular claimed advantages of Applicants' claimed invention.

Within Chang it seems clear that the subject is based on browsers for focused access of data. See, for example, the title of Chang.

In addition, one of the clear advantages of Chang appears to be that the particular data is not wholly excluded from access. That is to say that access is focused but not completely excluded from searching. Furthermore, the invention of Chang explicitly describes that one of the advantages of Chang is that it intends to give a user alternative means by which to search data as compared to complete restriction, that is, when operating with a particular firewall or the like.

See, for example, columns 1 and 2, highlighting problems in the prior art, as well as the intention of the application on which Chang was based.

Chang clearly emphasizes that complete restrictions have a chilling effect on the otherwise focused ability to access data, and clearly takes away from the browsing/searching experience. That is to say that one of the key aspects of Chang, provides the browser with the capability of removing hotlinks from those pages which are beyond a maximum allowable depth from the listed URLs, so that users do not attempt to access these links only to receive a message that these links are not accessible.

The Examiner has continued with his assertions that a zero depth parameter would be obvious and clearly within the intended purview of Chang. However, Applicants respectfully assert with a zero depth parameter, no searching is, in fact, allowed. Clearly this provides the user with the same undesirable outcome of receiving a message that these links are not

accessible, and accordingly was one of the shortcomings that Chang had hoped to correct.

As such, we believe that not only does Chang fail to render the claimed invention obvious for the reasons asserted above, and offered in even more complete detail in the prior responses, Chang would clearly teach away from, if not wholly frustrate any constructive purpose that the Examiner seems to allege would be combinable with the other references, to render the instant claimed invention obvious. Therefore, and relying only upon the asserted shortcomings of Chang, it is clearly a factual misconstruction of the Chang reference, to reasonably assert that Chang in combination with Bezos and Bernstein renders the above identified invention obvious for at least the reasons discussed above.

Accordingly, Applicants respectfully assert that the application of Chang to render independent claim 6, for example, obvious with regards to a user-selection operating without user access to and display of an address line for entry and display of a URL, and cannot configure the client portal to add or modify controls of the client portal to access content through sites in the network that are not pre-selected sites and are not relating to providing the particular product, and the user-selection cannot add or modify the controls of the association of the pre-selected site through a specific file header, resident at the client portal,” is a clear factual misconstruction of Chang and amounts to an improper basis by which to assert a *prima facie* case of obviousness under § 103.

Accordingly, Applicants respectfully assert that Chang fails to expressly or inherently lend support to a flexible surfing environment whereby a depth parameter may be set to a limit equal to zero, as offered by the Examiner.

Now, turning to Bernstein, the Examiner has asserted that Bernstein discloses the operation of a client portal, where with user access to and display of an address line for entry and display of a URL. However, while Bernstein may provide certain masking features that are features by which certain command lines or address fields could be obscured from view, Applicants respectfully assert that this is not the salient aspect of this particular limitation.

As asserted previously, and assuming *in arguendo* that this particular masking that is obscured from view, may be found within Bernstein, Applicants also assert that this particular masking or obscured from view event, which has been allegedly applied in combination to

Chang, would also operate at cross purposes for the particular combination.

That is to say that a masking or being obscured from view, would also contradict any ability for a user to manipulate their particular web surfing by acting within the present depth parameter as offered by the Examiner. As such, Applicants are of the opinion that the combination of at least Chang and Bernstein operate at cross purposes and cannot reasonably be combined with Bezos and operate in a logical fashion to render the instant claimed invention obvious.

For at least the basis asserted above, Applicants respectfully request that the asserted combination of Bezos in view of Chang, and further in view of Bernstein, fails to meet the burden of *prima facie* case of rejection under § 103 and must be withdrawn.

Conclusion

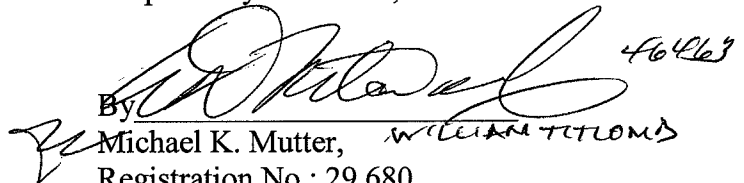
In view of the foregoing, Applicant respectfully submits that the application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact William D. Titcomb (Reg. No. 46,463) at (703) 205-8000 **to schedule a Personal Interview.**

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Dated: March 20, 2009

Respectfully submitted,

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